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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,035	09/15/2003	Martin Richard Layley	678-1257 (P11364)	2569
7590	10/06/2005		EXAMINER TRAN, TUAN A	
Paul J. Farrell DILWORTH & BARRESE, LLP 333 Earle Ovington Blvd. Uniondale, NY 11553			ART UNIT	PAPER NUMBER
			2682	

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/663,035	<b>Applicant(s)</b> LAYLEY ET AL.	
	<b>Examiner</b> Tuan A. Tran	<b>Art Unit</b> 2682	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 June 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-6,8-22 and 24-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,8-22 and 24-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

1. Claims 1, 3-6, 8-22 and 24-26 are rejected under 35 U.S.C. 102(a) as being anticipated by Yahiro (2002/0037745).

Regarding claim 1, Yahiro discloses a wireless communication device 10, 20 comprising: a search means; a control means; and a detection means, wherein the search means searches for a peripheral device 30 when the detection means detects that the peripheral device 30 is likely to be utilized by the wireless communication device 10, 20 and the detection means detects a predetermined condition indicating the likelihood of a request to utilize the peripheral device 30 by a user of the wireless communication device 10, 20 before the user makes the request, and the control means sets a flag (See fig. 4, step B7) according to the availability of the peripheral device 30 (See figs. 1, 4 and page 5 [0087], page 3 [0054-0057]).

Claim 6 is rejected for the same reasons as set forth in claim 1, as method.

Claim 22 is rejected for the same reasons as set forth in claim 1, as apparatus.

Regarding claim 3, Yahiro discloses as cited in claim 1. Yahiro further discloses a user interface, wherein the user interface provides an option to utilize the peripheral device 30, only if a peripheral device 30 is found (See fig. 14 and page 5 [0082-0085]).

Claim 8 is rejected for the same reasons as set forth in claim 3, as method.

Claim 24 is rejected for the same reasons as set forth in claim 3, as apparatus.

Regarding claim 4, Yahiro discloses as cited in claim 3, Yahiro further discloses the peripheral device is not utilized merely because the detection means detects the predetermined condition (See fig. 4 and page 3 [0055-0056]).

Claim 9 is rejected for the same reasons as set forth in claim 4, as method.

Claim 25 is rejected for the same reasons as set forth in claim 4, as apparatus.

Regarding claim 5, Yahiro discloses as cited in claim 4. Yahiro further discloses a locating means; and a route determination means, wherein the locating means locates a local wireless network and subsequently locates a peripheral device 30, and the route determination means determines a route through the network from the wireless communication device 10, 20 to the peripheral device 30 (See figs. 1, 4, 10 and page 3 [0059-0060], page 5 [0079-0082]).

Claim 10 is rejected for the same reasons as set forth in claim 5, as method.

Claim 26 is rejected for the same reasons as set forth in claim 5, as apparatus.

Regarding claims 11 and 13, Yahiro discloses as cited in claim 5. Yahiro further discloses the wireless communication device 10, 20 and the peripheral device 30 uses radio frequency communication wherein the radio frequency communication uses Bluetooth technology (See page 2 [0033]).

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Claim 12 is rejected for the same reasons as set forth in claim 11, as method.

Regarding claim 14, Yahiro discloses as cited in claim 11. Yahiro further discloses the communication between the peripheral device 30 and the wireless communication device 10, 20 is on a second network and a first network is used for the wireless communication device 10, 20 to communicate with other wireless communication device (See page 2 [0033, 0038]).

Claim 15 is rejected for the same reasons as set forth in claim 14, as method.

Regarding claim 16, Yahiro discloses as cited in claim 11. Yahiro further discloses the wireless communication device is a mobile phone (See page 2 [0031]).

Claim 17 is rejected for the same reasons as set forth in claim 16, as method.

Regarding claim 18, Yahiro discloses as cited in claim 16. Yahiro further discloses the detection that a peripheral device 30 is likely to be utilized occurs when a data file's size exceeds a preset limit on the wireless communication device 10, 20 (See page 3 [0055]).

Claim 19 is rejected for the same reasons as set forth in claim 18, as method.

Regarding claim 20, Yahiro discloses as cited in claim 5. Yahiro further discloses the peripheral device is a data backup device (See page 2 [0031]).

Claim 21 is rejected for the same reasons as set forth in claim 20, as method.

### ***Response to Arguments***

Applicant's arguments filed June 16, 2005 have been fully considered but they are not persuasive.

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a. The Applicant argued that Yahiro does not teach or suggest a controller for setting a flag according to the availability of peripheral device as recited in current amended claims 1 and 6. The Examiner respectfully disagrees with the Applicant argument because Yahiro does disclose the controller for setting the flag according to the availability of the peripheral device (See fig. 4 Step B7). For that reason, the Examiner remains the rejections of the pending claims.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tuan Tran** whose telephone number is **(571) 272-7858**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Nick Corsaro**, can be reached at **(571) 272-7876**.

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**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

**(571) 273-8300 (for Technology Center 2600 only)**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.



Tuan Tran

AU 2682



NICK CORSARO  
PRIMARY EXAMINER